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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 93 of 2003

in

SPECIAL CIVIL APPLICATIONNo 1903 of 2002

with

CIVIL APPLICATION No 6636 of 2002

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

PRAKASH JAGDISHCHANDRA PAREKH

Appearance:

MR SN SHELAT, ADVOCATE GENERAL WITH MS MANISHA KUMAR, AGP for the appellant.

MR AS SUPEHIA for Respondent No. 1

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 29/04/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Admit. Service of notice is waived by learned advocate Mr.AS Supehia for the respondent. Upon joint request and in view of the importance involved in the matter, the appeal is taken up for final hearing today itself.

We have heard the learned advocates appearing for the parties. Our attention is drawn to para 3 of the impugned judgment which shows that the matter is remanded by the learned single Judge to the Authority for fresh decision with a direction that the Authority may not take into consideration the pensionary income which the family of the deceased is getting. It is, also, observed that it will be open for the parties to take into consideration all the other factors except pensionary income. There is, also, time limit prescribed for the purpose of taking appropriate decision.

Our attention is, also, drawn to the Government resolution dated 7.9.2002 read with resolution dated 10.3.2002. We have gone through the said GRs. It is the revised policy of the Government, in so far as compassionate appointment is concerned, which is given effect from 1.1.96. It would, very well be visualised from the aforesaid resolutions that the monetary ceiling hithero prescribed has been considered and revised along with other aspects. It becomes, therefore, clear that when the application is directed to be reconsidered, the respondent authority will have to take into consideration all relevant facts and circumstances and the principles highlighted in the aforesaid Government Resolutions and also the direction contained in the impugned judgment which are very clear to that effect. We are, therefore, of the clear opinion that the impugned order of remand is not required to be disturbed. Therefore, we do not find any merit in this Letters Patent Appeal and the appeal deserves to be dismissed. It shall, therefore, stand dismissed accordingly. Since time prescribed is expired, we hereby direct the Authority to decide the application within period of three months from the date of receipt of this order.

Civil Application shall stand disposed of in view of the aforesaid order.

Direct service permitted.

(J.N.Bhatt, Acting CJ)

(K.A.Puj, J.)

(vjn)